

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

RICHARD AUSTIN, JR.,

Plaintiff,

v.

Case No. 05-cv-308-JPG-PMF

NATE MCVICKER,

Defendant.

**MEMORANDUM AND ORDER**

This matter comes before the Court on the Report and Recommendation (“Report”) (Doc. 43) of Magistrate Judge Philip M. Frazier recommending that the Court grant the defendant’s motion for summary judgment (Doc. 38).

The Court may accept, reject or modify, in whole or in part, the findings or recommendations of the magistrate judge in a report and recommendation. Fed. R. Civ. P. 72(b)(3). The Court must review *de novo* the portions of the report to which objections are made. *Id.* “If no objection or only partial objection is made, the district court judge reviews those unobjectionated portions for clear error.” *Johnson v. Zema Systems Corp.*, 170 F.3d 734, 739 (7th Cir. 1999).

The Court has received no objection to the Report. The Court has reviewed the entire file and finds that the Report is not clearly erroneous. Accordingly, the Court hereby **ADOPTS** the Report in its entirety (Doc. 43), **GRANTS** the defendant’s motion for summary judgment (Doc. 38) and **DIRECTS** the Clerk of Court to enter judgment accordingly.

**IT IS SO ORDERED.**  
**DATED: March 21, 2011**

s/ J. Phil Gilbert  
**J. PHIL GILBERT**  
**DISTRICT JUDGE**